

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

ECOFACITOR, INC.

Plaintiff,

v.

ECOBEE, INC.,

Defendant.

Case No. 6:21-cv-00428-ADA

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION STATEMENT

Plaintiff EcoFactor, Inc. (“EcoFactor”) and Defendant ecobee, Inc. (“ecobee”) submit this Joint Claim Construction Statement in anticipation of the claim construction hearing scheduled for March 18, 2022. The asserted patents and claims are:

- U.S. Patent No. 8,740,100 (“’100 Patent”) – Claims 1-16
- U.S. Patent No. 8,751,186 (“’186 Patent”) – Claims 1-3, 5-10, 12, and 13
- U.S. Patent No. 9,194,597 (“’597 Patent”) – Claims 9-16
- U.S. Patent No. 10,584,890 (“’890 Patent”) – Claims 1-6 and 9-17

The parties’ agreed and disputed claim constructions are provided below. The claim terms in dispute were proposed by ecobee.

I. Agreed Constructions

Term	Claims	Agreed Construction
A system for reducing the usage of a ventilation system comprising	’100 Patent, Claim 1	Preamble is limiting
rate of change of temperatures inside the structure	’100 Patent, Claims 1, 9	difference between inside temperature measurements divided by the span of time between the measurements
A process for optimizing the delay enforced by a thermostatic controller after said thermostatic controller turns a ventilation system off prior to allowing said thermostatic controller to signal said ventilation system to turn on again comprising	’100 Patent, Claim 9	Preamble is limiting
rates of change in temperature at the first location	’186 Patent, Claims 1, 8	difference between inside temperature measurements divided by the span of time between the measurements
automated setpoint	’597 Patent, Claim 9	a computer-calculated temperature setting for a thermostat to achieve or maintain

Term	Claims	Agreed Construction
setpoint	'597 Patent, Claim 9	a temperature setting for a thermostat to achieve or maintain
comparing	'597 Patent, Claim 9	analyzing to determine one or more similarities or differences between
setpoint	'890 Patent, Claim 1	a temperature setting for a thermostat to achieve or maintain

II. DISPUTED CLAIM TERMS

Term and Claims	Plaintiff's Proposal	Defendant's Proposal
evaluate one or more parameters / evaluating ... one or more parameters relating to the operation of the said ventilation system ('100 Patent, Claims 1, 9)	No construction necessary; plain and ordinary meaning	Indefinite
the predicted rate of change ('597 Patent, Claim 9)	“rate of change”: difference between inside temperature measurements divided by the span of time between the measurements Remainder of phrase: No construction necessary; plain and ordinary meaning	Indefinite
protect the compressor from rapid cycling ('890 Patent, Claim 1)	No construction necessary; plain and ordinary meaning	Indefinite
performance characteristic ('890 Patent, Claim 17)	No construction necessary; plain and ordinary meaning	Indefinite

Date: March 4, 2022

/s/ Reza Mirzaie

Reza Mirzaie
Marc A. Fenster
Kristopher Davis
James Pickens
Minna Chan
Jason Wietholter
Russ August & Kabat
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025
Telephone: (310) 826-7474

Matthew D. Aichele
Russ August & Kabat
800 Maine Ave SW, Suite 200
Washington, DC. 20024
Telephone: (202) 664-0623

Counsel for Plaintiff EcoFactor, Inc.

Respectfully submitted,

/s/ Jennifer Ainsworth

Timothy J. Carroll
Steven M. Lubezny
VENABLE LLP
227 West Monroe Street, Suite 3950
Chicago, ILL 60606
Telephone: (312) 820-3400
Fax: (312) 820-3401
TJCarroll@Venable.com
SMLubezny@Venable.com

Manny J. Caixeiro
VENABLE LLP
2049 Century Park East, Suite 2300
Los Angeles, CA 90067
Telephone: (310) 229-9900
Fax: (310) 229-9901
MJCaixeiro@Venable.com

Jennifer Parker Ainsworth
Texas State Bar No. 00784720
WILSON, ROBERTSON & CORNELIS, P.C.
909 ESE Loop 323, Suite 400
Tyler, Texas 75701
Telephone: (903) 509-5000
Fax: (903) 509-5092
jainsworth@wilsonlawfirm.com

Counsel for Defendant ecobee, Inc.

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served on March 4, 2022, with a copy of this document via the Court's CM/ECF.

/s/ Reza Mirzaie
Reza Mirzaie